

U.S. DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA

ALEXANDRIA DIVISION

SCROGGINS

CIVIL ACTION NO. 15-1768

VERSUS

U.S. DISTRICT JUDGE DRELL

STOKES, et al

U.S. MAGISTRATE JUDGE KIRK

REPORT AND RECOMMENDATION OF MAGISTRATE JUDGE

Before the court is a motion by plaintiff for a temporary restraining order, doc. #8, a motion for "gag order", doc. #7, which I construe as a motion for TRO, and another motion, doc. #18, which I also construe as a motion for TRO. The three documents, whether read separately or in pari materia, state that Plaintiff wants protection from defendants Stokes and Drapper to prevent them from harming him or his family and to prevent them from making withdrawals from his checking account while he is in prison. He also asks that his checking account be frozen. He makes allegations of forgery, though he doesn't name the person(s) who he believes may be forging documents. Rule 65 of the Federal Rules of Civil Procedure provides, in pertinent part, as follows:

- (b) A temporary restraining order may be granted without written or oral notice to the adverse party or that party's attorney only if (1) it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give the notice and the reasons supporting the claim that notice should not be required.

In order for plaintiff to obtain a preliminary injunction, he must show: (1) a substantial likelihood that his cause will succeed on the merits, (2) a substantial threat of irreparable injury if

the injunction is not granted, (3) that the threatened injury outweighs the threatened harm the injunction may do to the opposing party, and (4) that the court granting the injunction will not disserve the public interest. Piedmont Heights Civic Club, Inc. v. Moreland, 637 F.2d 430 (5th Cir. 1981).

In the instant case, plaintiff has failed to meet the requirements set forth above. The facts alleged do not appear by affidavit and the motion is not verified by petitioner. Further, plaintiff has not alleged any specific facts to show that immediate and irreparable injury, loss, or damage will result to him. Further, petitioner has failed to comply with the requirements of FRCP 65 (b)(B) requiring reasons why notice to the adverse party should not be required.

Conclusion

For the foregoing reasons, IT IS RECOMMENDED that plaintiff's requests for temporary restraining order [Doc. #7, 8, and 18] be DENIED.

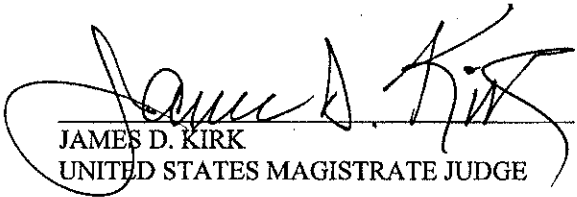
OBJECTIONS

Under the provisions of 28 U.S.C. § 636(b)(1)(C) and Fed.R.Civ.P. 72(b), the parties have fourteen (14) calendar days from service of this Report and Recommendation to file specific, written objections with the clerk of court. . A party may respond to another party's objections within **fourteen (14) days** after being served with a copy thereof. No other briefs (such as supplemental objections, reply briefs etc.) may be filed. Providing a courtesy copy of the objection to the magistrate judge is neither required nor encouraged. Timely objections will be considered by the district judge before making a final ruling.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS,

**CONCLUSIONS, AND RECOMMENDATIONS CONTAINED IN THIS REPORT
WITHIN FOURTEEN (14) CALENDAR DAYS FROM THE DATE OF ITS SERVICE
SHALL BAR AN AGGRIEVED PARTY, EXCEPT UPON GROUNDS OF PLAIN
ERROR, FROM ATTACKING ON APPEAL THE UN-OBJECTED-TO PROPOSED
FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT
JUDGE.**

THUS DONE AND SIGNED in chambers, in Alexandria, Louisiana, on this 24th day of
July, 2015.


JAMES D. KIRK
UNITED STATES MAGISTRATE JUDGE